IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 659 OF 2003

IN

SUMMARY SUIT NO. 3117 OF 2001

Mr.Kaushikkumar Pandya .. Plaintiff

versus

Mrs.Geeta wd/o Mahesh Kantawala & ors.. Defendant

...

Mrs.Neela Dholakia for the plaintiff.

Defendant present in person.

CORAM : D.G. KARNIK,J.

DATED : 20th April 2005.

P.C.:

1. Heard the learned counsel for the plaintiff.

2. This Summons for Judgement is taken out by the plaintiff in a suit filed for recovery of money on a promissory note allegedly executed by Mahesh Kantawala, husband of defendant no.1 and father of defendant nos.2 and 3. The defendants by filing an

affidavit in reply have denied the signature of Mahesh on the promissory note and have contended that the promissory note has not been executed by the deceased. In the circumstances, plaintiff would be required to prove at trial that the promissory note was executed by Mahesh. Furthermore, the extent of liability of the defendants as heirs of Mahesh would also require adjudication.

3. In the circumstances, triable issues arise in this case. The defendant is granted unconditional leave to defend the suit.

4. Suit shall stand transferred to the list of commercial causes. The defendant to file written statement within a period of four weeks.

D.G. KARNIK, J